

the Applicant's specification (see page 2. Lines 5-7 of the specification). Therefore, the Applicant argues that the §112 rejection is improper, and asks for reconsideration of the rejection by the Examiner.

With that being said, the Applicant will keep in mind the difference in units when making the following arguments as to patentability in view of the art cited.

**Claims 1-4 and 6-7 stand rejected under 35 USC §103(a) as unpatentable over Parks, et al.** The Examiner states that Parks discloses a laminate which reads on the Applicant's claimed invention.

The Applicant respectfully disagrees. The Applicant's permeability data was obtained on a 3-layer laminate (paper/Bynel®/amorphous polyamide). The Applicant claims a packaging material wherein the paper layer is in contact with a composition described as an ethylene copolymer, and which does not include LDPE. The Examiner points to Table 2 in Parks, where a 7-layer laminate structure comprising a layer of LDPE on the outside of a layer of paperboard, and on the other (inner) surface of the paperboard, a LDPE/Bynel®/amorphous polyamide/Bynel®/LDPE sandwich structure. The Applicant's laminate, therefore, is not described or exemplified.

The 7-layer structure has an  $O_2$  permeability of  $0.24 \text{ cc} \cdot \text{mil} / 100 \text{ in}^2 \cdot \text{day} \cdot \text{atm}$ . The Applicant notes that the permeability units used by Parks cannot be reconciled easily with the Applicant's measurement. Parks does not describe the method used to determine the permeability data in Table 2, and so it is difficult to compare the results. Nor does Parks conduct the measurement at the same temperature as the Applicant. However, if one were to assume that the measurements could be reconciled by converting the "100 in<sup>2</sup>" term in Parks to "m<sup>2</sup>" (by dividing 100/1550.031) and then "getting rid" of the "mil" term in Parks by dividing by the thickness, the units would appear to match between the two measurements. If those operations are carried out the permeability number given in Parks, converted to the Applicant's units would be in the range of from about 9.3 to

about 12.40, and there would be very little overlap with the Applicant's claimed invention.

However, the Applicant contends that these measurements are not relevant to the present invention. These measurements were taken at different conditions, and the measurements made on a different type of laminate structure, relative to the presently claimed invention. Trying to compare the permeability of the Applicant's claimed structure with the permeability of the structures in Parks is much like comparing "apples to oranges". The Applicant respectfully contends, therefore that Parks does not make the present invention obvious.

Further in view of the above remarks, the Applicants respectfully contend that Parks can not make the presently claimed invention obvious even taken in view of Zabrocki. Zabrocki does not cure the deficiency of Parks, wherein Parks does not describe or exemplify the Applicant's laminate structure comprising paper/ethylene copolymer/amorphous polyamide contacting each other as claimed.

In view of the foregoing, allowance of the above-referenced application is respectfully requested.

Respectfully submitted,



KEVIN S. ROBSON  
REGISTRATION NO. 40,296  
TELEPHONE: (302) 892-5526  
FACSIMILE: (302) 992-3257

FOR

CRAIG H. EVANS  
ATTORNEY FOR APPLICANTS  
REGISTRATION NO. 31,825  
TELEPHONE: (302) 992-3219  
FACSIMILE: (302) 992-3257

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